beneficial user of his land for the protection of those who come upon it without right. When the presence of the trespasser is known, or ought to be known, the landowner must use due care not actively to injure him. *Herrick* v. *Wixom*, 121 Mich. 384; *Fearons* v. *Kansas City Elevated Ry. Co.*, 180 Mo. 208. But where the defendant does not himself bring force to bear on the plaintiff, the user is beneficial, and the danger contingent and remote, the wisdom of imposing such liability on the landowner is questionable.

DEAD BODIES — NATURE OF RIGHT IN. — The plaintiff shipped the body of her deceased son by the defendants' railway and, through a mistake of its servants, the body was put off at the wrong station, causing delay and expense to the plaintiff. This action was for damages on account of the defendants' negligence. *Held*, that the corpse is the property of the plaintiff, subject to limitations upon its disposition and use, and that she can recover damages for the expenses incurred. *Miner* v. *Canadian Pacific R. Co.*, 15 West. L. Rep. 161 (Alberta, Aug. 8, 1910). See NOTES, p. 315.

DEATH BY WRONGFUL ACT — DAMAGES IN STATUTORY ACTION — RIGHT OF WIFE NOT SUPPORTED BY HUSBAND TO SUE FOR HIS DEATH. — The plaintiff's husband deserted her shortly after their marriage and thereafter contributed nothing toward her support. He was killed by reason of the defendant's negligence, and the plaintiff brought an action as beneficiary under the death statute. The court directed a verdict for the defendant. *Held*, that the case should have been submitted to the jury. *Ingersoll* v. *Mackinac Ry. Co.*, 128 N. W. 227 (Mich.).

In such a case the rule in Michigan is to allow no recovery, if no pecuniary damage is shown. *Hurst* v. *Detroit City Ry.*, 84 Mich. 539. The weight of authority gives the plaintiff nominal damages, but the Michigan rule seems sounder. The death statutes are framed to recompense the beneficiaries, and if there is nothing for which to recompense them there should be no action. There is a pecuniary damage here in the loss of the action which the wife might have brought at any time against her husband to force him to support her. The loss of the possibility of bringing an action is enough to create a reasonable probability that damage has been suffered, and hence presents a question for the jury, even though, in the final event, they should find that the wife would probably never have recovered anything from the deceased. This view is supported by other authority. *Baltimore & Ohio R. Co.* v. *State*, 81 Md. 371; *International & Great Northern R. Co.* v. *Culpepper*, 19 Tex. Civ. App. 182.

DIVORCE — DEFENSES — DELAY. — A husband, after an invalid divorce, married again. After knowing of this marriage for ten years the first wife sued for a divorce, charging adultery with the second wife within the last year. By statute such a suit must be brought within five years of the discovery of the offense, or if the defendant committed the offense outside the state, within five years after his return. *Held*, that a divorce be granted. *Ackerman* v. *Ackerman*, 44 N. Y. L. J. 1059 (N. Y., Ct. App., Nov. 22, 1910).

The majority of the court regarded the continuous cohabitation with the second wife as a single offense, and only allowed the plaintiff to sue because the defendant had been continuously out of the state. Three judges, however, concurred in the result on the ground that each act of adultery constituted a new cause of action. Strict logic favors this view, but on the authorities the rule seems to be that when charged with notice of the defendant's adulterous intercourse, although that relation exists at the date of the suit, the plaintiff cannot set up specific acts in that continuing intercourse as a ground for divorce after the statutory period. *Valleau* v. *Valleau*, 6 Paige (N. Y.) 207; *Dutcher* v. *Dutcher*, 39 Wis. 651. The delay of the aggrieved party has allowed the